

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Peter Hoy (S7)	Team: Team # 3	CCRB Case #: 201106779	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/24/2011 10:00 PM	Location of Incident: East 165th Street and Teller Avenue	Precinct: 42	18 Mo. SOL 11/24/2012	EO SOL 11/24/2012	
Date/Time CV Reported Wed, 05/25/2011 4:26 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/25/2011 4:26 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Humberto Morales	19413	933575	INT CIS
2. SGT Michael Raso	00484	933235	PBBX SU
3. POM Joseph Stynes	20088	919759	047 DET

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Raso	Abuse: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Humberto Morales	Abuse: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.SGT Michael Raso	Abuse: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the search of § 87(2)(b)	
D.POM Humberto Morales	Abuse: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales searched § 87(2)(b)	
E.POM Joseph Stynes	Discourtesy: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes spoke rudely to § 87(2)(b)	
F.SGT Michael Raso	Force: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso used physical force against § 87(2)(b)	
G.POM Humberto Morales	Force: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales used physical force against § 87(2)(b)	
H.POM Joseph Stynes	Force: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes used physical force against § 87(2)(b)	
I.POM Joseph Stynes	Abuse: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes threatened to arrest § 87(2)(b)	
J.POM Joseph Stynes	Abuse: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes frisked § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K.POM Joseph Stynes	Abuse: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes searched § 87(2)(b)	
L.SGT Michael Raso	Abuse: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
M.SGT Michael Raso	Force: At the 48th Precinct stationhouse, Sgt. Michael Raso used physical force against § 87(2)(b)	
N.POM Humberto Morales	Force: At the 48th Precinct stationhouse, PO Humberto Morales used physical force against § 87(2)(b)	
O.POM Joseph Stynes	Force: At the 48th Precinct stationhouse, PO Joseph Stynes used physical force against § 87(2)(b)	
P.SGT Michael Raso	Abuse: At the 48th Precinct stationhouse, Sgt. Michael Raso supervised the strip-search of § 87(2)(b)	

Case Summary

On May 25, 2011, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board (CCRB) by telephone, on behalf of herself and her boyfriend, § 87(2)(b) (encl. 4-4b).

On May 24, 2011, at approximately 10:00 p.m., at East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso, PO Humberto Morales and PO Joseph Stynes of Patrol Borough Bronx Anticrime stopped a livery cab in which § 87(2)(b) and § 87(2)(b) were passengers. § 87(2)(b) was arrested and brought to the 48th Precinct stationhouse. The following allegations resulted:

- **Allegation A - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
- **Allegation B - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**
§ 87(2)(g)
- **Allegation C - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the search of § 87(2)(b)**
- **Allegation D - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales searched § 87(2)(b) § 87(2)(g)**
- **Allegation E - Discourtesy: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes spoke rudely to § 87(2)(b) § 87(2)(g)**
- **Allegation F - Force: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso used physical force against § 87(2)(b)**
- **Allegation G - Force: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales used physical force against § 87(2)(b) § 87(2)(g)**
- **Allegation H - Force: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes used physical force against § 87(2)(b) § 87(2)(g)**
- **Allegation I - Discourtesy: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes threatened to arrest § 87(2)(b) § 87(2)(g)**
- **Allegation J - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes frisked § 87(2)(b)**
- **Allegation K - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes searched § 87(2)(b) § 87(2)(g)**
- **Allegation L - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the search of the car in which § 87(2)(b) and § 87(2)(b) were occupants.** § 87(2)(g)

§ 87(2)(g)

- **Allegation M - Force: At the 48th Precinct stationhouse, Sgt. Michael Raso used physical force against** § 87(2)(b)
- **Allegation N - Force: At the 48th Precinct stationhouse, PO Humberto Morales used physical force against** § 87(2)(b)
- **Allegation O - Force: At the 48th Precinct stationhouse, PO Joseph Stynes used physical force against** § 87(2)(b) § 87(2)(g)
- **Allegation P - Force: At the 48th Precinct stationhouse, Sgt. Michael Raso supervised the strip-search of** § 87(2)(b) § 87(2)(g)

The case was initially assigned to Inv. Takeya Patterson, but on September 25, 2012, the case was reassigned to Assistant Supervising Investigator Peter Hoy.

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) *is black man who was § 87(2)(b) old on the date of incident. He is 5'8" tall, weighs 189 pounds and has brown hair and hazel eyes.*

Statements to Medical Personnel (encl. 5-5g)

On May 25, 2011, an ambulance call report was prepared for § 87(2)(b) who told EMS that he was beaten by the police and that he was assaulted by numerous police officers, hit with hands and kicked while on the ground. The same day, § 87(2)(b) was transported to § 87(2)(b) where he complained of pain to his ribs, head and lower back. He told medical personnel that police beat him up and that he "got beat" in the holding cell.

On § 87(2)(b), § 87(2)(b) went to § 87(2)(b) triage unit, where he told medical personnel that on May 24, 2011, he was assaulted with fists, kicked and pushed.

On § 87(2)(b), § 87(2)(b) was transported by FDNY EMS to § 87(2)(b) emergency medical services unit. According to the pre-hospital care report and hospital records, § 87(2)(b) told medical personnel he was assaulted.

Statements in Notice of Claim (encl. 5h-5i)

On § 87(2)(b), § 87(2)(b) filed a Notice of Claim with the City of New York, claiming that on May 24, 2011, at approximately 10:00 p.m., on Teller Avenue between East 164th and 165th Streets in the Bronx, officers detained, assaulted and falsely imprisoned him, causing him multiple bodily injuries, including injuries to his head, forehead, ribs, wrists, left eyes, lower back and neck.

Statements to the CCRB (encl. 6-6h)

On June 20, 2011, § 87(2)(b) was interviewed at the CCRB. Follow up telephone statements were taken from him on the following dates: July 13, 2011; August 8, 2011; September 22, 2011; April 12, 2012; and September 20, 2012. His statements are summarized below.

On May 24, 2011, at approximately 10:00 p.m., § 87(2)(b)'s girlfriend, § 87(2)(b) called a livery cab to take them from § 87(2)(b)'s residence, located at § 87(2)(b) in the Bronx to Juniors restaurant on Burnside Avenue. When the cab picked them up, § 87(2)(b) sat in the right rear

seat and § 87(2)(b) sat behind the driver, identified by the investigation as § 87(2)(b). During the ride, § 87(2)(b) did not argue with § 87(2)(b) lean forward or give § 87(2)(b) directions. § 87(2)(b) did not drive recklessly and § 87(2)(b) did not believe he was speeding, though § 87(2)(b) noted he could not accurately estimate the cab's speed. After driving about three blocks, the cab was pulled over on Teller Avenue between East 164th and 165th Streets by three plain-clothed officers in an unmarked black Chevrolet Impala. The officers were identified by the investigation as PO Humberto Morales, PO Joseph Stynes and Sgt. Michael Raso of Patrol Borough Bronx Anti-Crime. § 87(2)(b) described PO Morales as a Hispanic man in his late 30s who stood 5'7" tall, Sgt. Raso as a white man in his late 30s who stood 5'11" tall, and PO Stynes as a heavyset white man in his 40s with a red beard.

[illegible]

§ 87(2)(b) did not know what interaction § 87(2)(b) had with the officers. After being handcuffed, § 87(2)(b) was placed in the police vehicle, where officers “roughed him up.” He explained this as an officer holding the chain of his handcuffs and pulling them up, causing pain, but he did not detail any other force used in the vehicle. He also recalled that an officer threatened him in some way, but could not provide details about this. He did not allege that his handcuffs were re-tightened. § 87(2)(b) also said that after he was transported to the stationhouse, officers “beat him up.” He described this as officers dragging him on the ground, punching and kicking him “all over.” He could not describe the room where the officers beat him and he did not recall if any other prisoners were present. He could not describe where on his body he was kicked or punched, or which officer took which actions. In response, he curled up on the floor to protect himself. The officers left him handcuffed on the floor of the cell for a prolonged period of time, which caused lacerations to his wrists and numbness in his left thumb.

§ 87(2)(b) said he sustained the following injuries as a result of the force used against him throughout the incident: lacerations on the right side of his head and the bridge of his nose, lacerations and numbness on his wrists, bruising to his left eye and back, and a bloodshot left eyeball. When § 87(2)(b) asked for medical attention, PO Morales told him, “If you go to the hospital, you’re going to jail.” However, PO Morales and Sgt. Raso transported him to § 87(2)(b) where he received an x-ray and CT scan, which were both negative for fractures.

On § 87(2)(b), after § 87(2)(b)’s release, he was still in pain and went to the emergency room at § 87(2)(b). He was diagnosed with bruised ribs, injected with pain medication and prescribed muscle relaxers and pain killers. A few days later, § 87(2)(b) went to the emergency room at § 87(2)(b) because he could not sleep. The physician found a lump on the right side of § 87(2)(b)’s ribs and instructed him to do physical therapy for his leg, back and ribs.

Arrest Photograph

No arrest photo was on file related to § 87(2)(b)’s arrest (encl. 22d).

Other Photographs (encl.7-7q)

On May 26, 2011, photos of § 87(2)(b)’s injuries were taken at § 87(2)(b). On April 26, 2012, § 87(2)(b) provided copies of these photos to the CCRB with the following descriptions: 1) Bruising to left eye from a punch to eye and a laceration on nose from being slammed on the trunk of a car and bruising to left side of face. 2) Close-up of left side of face with bruising on ear and a blood shot eye. 3) Bruising covering entire left eye and laceration on nose from face being slammed on the trunk of the cab by an officer. 4) Close-up of injuries in Picture #3. 5) Laceration to right side of forehead area, where an officer placed his foot on § 87(2)(b)’s head and grinded. 6) Close-up of injuries in Picture #5. 7) Bruising and swelling on back of head from punches by officers. 8) Minor laceration on arm around elbow area and laceration on hip area. 9) Lacerations on knees from the concrete. 10) Lacerations to left wrists caused by handcuffs being on for a prolonged period of time. 11) Different angle of injuries in Photo #10. 12) Minor laceration and bruising to right wrist from handcuffs. 13) Bruising on back of arm from kicks by officers. 14) Bruising to left shoulder. 15) Close-up of bruising on the left-side of waist. 16) Foot prints on clothing from officers’ feet. 17) Different angle of image in Photo #16.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a Hispanic woman who was § 87(2)(b) old on the date of incident. She is 5’5” tall, weighs 165 pounds and has brown hair and brown eyes.

Statements to the CCRB (encl. 8-8e)

On June 20, 2011, § 87(2)(b) was interviewed at the CCRB. Her statement was generally consistent with her initial complaint, a follow up telephone statement on July 12, 2012, and § 87(2)(b)’s statement. § 87(2)(g)

After the cab was pulled over, PO Morales told § 87(2)(b) to exit and stand at the rear of the vehicle. In § 87(2)(b)’s initial complaint, she said an officer told § 87(2)(b) to get off his “fucking” phone, but she did not repeat this allegation during her CCRB interview. Also in her initial statement, she noted that an officer asked § 87(2)(b) if he had anything on him, to which § 87(2)(b) said, “No,” and told the officer he could search him. However, in § 87(2)(b)’s sworn statement, she did not mention the questioning or the consent provided by § 87(2)(b). PO Morales instructed § 87(2)(b) to lean over and put his hands on the trunk, then frisked § 87(2)(b). During the frisk, § 87(2)(b) leaned her head outside of the cab door and attempted to record the interaction on her camera’s phone. PO Stynes grabbed her phone, stated, “Get the fuck off the phone,” and threw the phone in the backseat of the

cab.

At the rear of the cab, PO Morales told § 87(2)(b) “Shut the fuck up,” and slammed his head on the trunk. Sgt. Raso approached and punched § 87(2)(b) on the right side of his face, causing him to fall to the ground on his left side. Sgt. Raso and PO Morales then handcuffed § 87(2)(b). While § 87(2)(b) was handcuffed on the ground, § 87(2)(b) overheard him shout, “You can’t pull my pants down in the middle of the street.” PO Stynes attempted to block § 87(2)(b) view by standing in front of her while she looked out the side of the car. Shortly after, PO Stynes approached § 87(2)(b) placed his foot onto his head and grinded his head into the concrete. All three officers then hit § 87(2)(b) in various places on his body. Sgt. Raso punched § 87(2)(b) several times, PO Morales began to pull him and PO Stynes kicked him several times. While being hit, § 87(2)(b) did not move his body or resist.

PO Stynes approached the cab and § 87(2)(b) asked what was happening. PO Stynes responded, “Shut up, you’re going to jail too.” He asked § 87(2)(b) to exit the cab and requested her identification. PO Stynes tapped her front and back jeans pockets and instructed her to lift her shirt so he could check her waist area. PO Stynes did not recover anything from § 87(2)(b). PO Stynes searched the backseat of the cab, but did not search the front seat or trunk. Nothing was recovered from the cab. PO Stynes instructed § 87(2)(b) and § 87(2)(b) to leave and they drove away in the cab.

Witness: § 87(2)(b)

- § 87(2)(b) is a Hispanic man who was § 87(2)(b) old on the date of incident. He is 5’11” tall, weighs 190 pounds and has black hair and brown eyes. § 87(2)(b) is a taxi driver for § 87(2)(b).

Statements to the CCRB (encl. 9-9d)

On August 11, 2011, § 87(2)(b) was interviewed at the CCRB and on April 12, 2012, a follow telephone statement was taken. § 87(2)(g) The interviewed was conducted in Spanish and Inv. Evelis Otero translated the interview.

At the time and place of occurrence, § 87(2)(b) picked up § 87(2)(b) and § 87(2)(b) in his cab. While he drove, the passengers only spoke to each other. They did not lean forward or speak with § 87(2)(b). When the officers pulled the cab over, § 87(2)(b) had been driving approximately 15 miles-per-hour or less due to the fact that there are stop signs on the corner of each street. The officers approached the car and asked the passengers to exit. PO Stynes asked § 87(2)(b) if he was okay and recorded information from his license, but did not ask him to exit or tell him the reason for the stop. Officers searched the back of the vehicle, including under floor mats and in compartments on the doors. § 87(2)(b) could not specify which officers conducted the search. The officers did not search the front of the vehicle, but PO Stynes shined his flashlight into the front. No contraband was recovered. § 87(2)(b) does not have a NYPD Taxi Robbery Inspection Program decal on his cab.

An officer § 87(2)(b) could not describe, but the investigation identified as PO Stynes, told § 87(2)(b) to pull her pants pockets inside out. § 87(2)(b) did not recall if PO Stynes made any contact with her. § 87(2)(b) overheard PO Stynes speak to § 87(2)(b) about a phone, but he did not witness any officer throw a phone. § 87(2)(b) did not see § 87(2)(b) try to record the incident.

At the rear of the cab, an officer interacted with § 87(2)(b) but § 87(2)(b) did not see the full interaction because he was reluctant to look back. § 87(2)(b) heard a loud thud, as if something hit the back of his vehicle. He did not know what caused this bang, but when he looked back, he saw § 87(2)(b) lying face down on the ground behind the cab. Only the top half of his body was visible, as the rest of was blocked by the vehicle. § 87(2)(b) did not see how § 87(2)(b) went to the ground. On the ground, § 87(2)(b) moved from side to side, positioned face-down with his hand under him. Due to a language barrier, § 87(2)(b) did not understand everything said during the incident, but the officers repeatedly yelled, “Give me your hands,” and § 87(2)(b) yelled something similar to, “I don’t have anything.” An officer § 87(2)(b) could not describe, but the investigation identified as PO Stynes,

placed his foot on § 87(2)(b)'s head. § 87(2)(b) could not specify whether PO Stynes grinded § 87(2)(b)'s head against the ground. At least two officers surrounded § 87(2)(b) but § 87(2)(b) could not see exactly what they did or if they hit § 87(2)(b). § 87(2)(b) was ultimately handcuffed and placed in the police vehicle. § 87(2)(b) did not hear the officers use profanity during the incident. § 87(2)(b) reentered the cab and § 87(2)(b) dropped her off where he had picked her up.

NYPD Statements:

Subject Officer: SGT. MICHAEL RASO

- *Sgt. Raso is a white man who was § 87(2)(b) old on the date of incident. He is 5'8" tall, weighs 205 pounds and has brown hair and eyes.*
- *Sgt. Raso worked from 7:15 p.m. on May 24, 2011, to 4:12 a.m. on May 25, 2011, dressed in plain clothes and assigned to anticrime with PO Stynes and PO Morales in an unmarked vehicle.*

Memo Book (encl. 10-10a)

At 10:28 p.m., car stop at the corner of East 165th Street and Teller Avenue. At 11:30 p.m., one under arrest by PO Morales. At 11:40 p.m., administrative duties at the 48th Precinct.

Statements to the CCRB (encl. 10b-10g)

On January 19, 2012, and again on February 22, 2013, Sgt. Michael Raso was interviewed at the CCRB. § 87(2)(g)

On May 24, 2011, at the time of occurrence, Sgt. Raso was conducting anticrime patrol in the Bronx with PO Stynes, who was driving, and PO Morales, who was in the front passenger's seat. Sgt. Raso said the officers were not looking for any conditions in particular, but noted that the officers "look for all kinds of conditions." While stopped at an intersection, PO Morales told Sgt. Raso that he observed a livery cab drive past at a high rate of speed, that the passenger in the backseat was leaning towards the driver and that it appeared they were arguing. PO Morales did not indicate how fast the cab was going. Sgt. Raso had not noticed the cab until PO Morales alerted him to it. The cab passed within approximately 15 yards of the officers' vehicle. The area was dark, but there were street lights nearby.

The officers stopped the cab on East 165th Street and Teller Avenue in order to investigate whether there was "an altercation" in the vehicle. Sgt. Raso noted that livery cab robberies are common and said of the vehicle stop, "That was an investigation [we] were looking into." When asked what other altercations he suspected it may have been besides a robbery, Sgt. Raso said, "It could have been anything, any altercation." When asked what types of altercations would prompt the officers to stop a cab, he listed robberies, disputes and fare disputes. Other than the speeding and § 87(2)(b)'s movements, nothing else made Sgt. Raso suspicious that a crime was occurring in the vehicle. Sgt. Raso did not recall if the cab had a TRIP decal on it.

During the stop, PO Stynes spoke with § 87(2)(b) but Sgt. Raso did not know the details of their conversation. Sgt. Raso stayed at the rear of the cab. He did not recall if there was a light on inside the cab, but he shined his flashlight into the cab and through the rear window, he saw § 87(2)(b) lean forward and put his right arm behind him, leading Sgt. Raso to suspect § 87(2)(b) had a weapon. PO Morales approached the passenger side, asked § 87(2)(b) to exit and brought him to the rear of the vehicle. PO Morales told § 87(2)(b) to lean over the trunk of the cab so he could frisk the rear of § 87(2)(b)'s pants. There had been no discussion about frisking § 87(2)(b) prior to that, but PO Morales later told Sgt. Raso that he had also seen § 87(2)(b) lean over and place his hand in the rear of his pants, prompting him to suspect § 87(2)(b) of having a weapon because the rear waistband is a common for concealing weapons. At that time, Sgt. Raso had not observed any bulges and nothing else had raised his suspicion that § 87(2)(b) had a weapon. PO Morales reached to frisk § 87(2)(b) but before he made contact with his body, § 87(2)(b) pushed off from the vehicle and turned to face PO Morales. Sgt. Raso believed he may have also raised his hands. Sgt. Raso and PO Morales grabbed § 87(2)(b).

§ 87(2)(b)'s arms and physically turned him back around. As they did this, § 87(2)(b) "violently struggled" against them and all three fell to the ground. Sgt. Raso could not provide any other detail about the actions taken that caused them to go to the ground. § 87(2)(b) fell face down, resulting in a laceration on his forehead.

PO Stynes approached and assisted by helping to roll § 87(2)(b) onto his stomach. As the officers tried to get § 87(2)(b) into handcuffs, he struggled by flailing his arms and attempting to reach into the rear of his pants. The officers grabbed § 87(2)(b)'s arms because they thought he was reaching for a weapon. PO Morales touched the outside of the rear of § 87(2)(b)'s pants and then announced, "It's not a gun. It's drugs." Sgt. Raso did not see any narcotics at that time, but he believed that PO Morales had been able to see that § 87(2)(b) had narcotics in the rear of his pants. The drugs were not actually recovered until § 87(2)(b) was later strip-searched at the stationhouse. The officers struggled with § 87(2)(b) for about one minute before one of the officers successfully handcuffed him. After being handcuffed, § 87(2)(b) continued struggling, trying to put his hands in his pants to further secrete the drugs. Sgt. Raso explained that § 87(2)(b) was arrested because of PO Morales' observations that he was in possession of narcotics. He further explained that because the violent struggle made it unsafe to recover the narcotics from his pants at the scene, they brought him to the stationhouse before actually retrieving the narcotics. Other than the forehead laceration, Sgt. Raso did not observe any injuries on § 87(2)(b). The officers did not punch, kick or hit § 87(2)(b)'s head against the vehicle. § 87(2)(b) was placed in the police vehicle and PO Morales sat in the vehicle to monitor him. None of the officers used any additional force at any point during their interaction with § 87(2)(b).

Sgt. Raso believed § 87(2)(b) exited the vehicle, but she did not interfere with the officers. PO Stynes spoke to § 87(2)(b) and § 87(2)(b) but did not tell Sgt. Raso what they said. They were not frisked or searched. No steps were taken to address § 87(2)(b)'s speeding because the vehicle was stopped to determine if the speeding was indicative of a crime occurring, not for traffic enforcement.

Sgt. Raso instructed PO Stynes to search the back of the cab for contraband because he believed § 87(2)(b) may have concealed narcotics or weapons in the vehicle, but nothing was recovered from the search. Other than what was already described, no additional factors added to Sgt. Raso's suspicion.

§ 87(2)(b) was transported to the 48th Precinct stationhouse. Upon exiting the police vehicle, § 87(2)(b) lowered himself onto the ground by extending his legs forward and appeared to clench his buttocks, which Sgt. Raso believed was to maintain a grip on the contraband tucked in his pants. PO Morales and Sgt. Raso had to carry § 87(2)(b) into the stationhouse by his arms and legs. In the stationhouse bathroom, the officers told § 87(2)(b) that he would be strip-searched. All three officers participated in the strip-search. Normally, prisoners are unhandcuffed during a strip-search so they can remove their own clothing; however, § 87(2)(b)'s handcuffs were left on because he began thrashing around violently and used his body to push Sgt. Raso into a barred window. Sgt. Raso could not provide any details about how § 87(2)(b) was restrained during the strip-search, but said the officers did not strike § 87(2)(b). PO Morales pulled § 87(2)(b)'s pants and underwear down and recovered 390 OxyContin pills from inside of his underwear. § 87(2)(b) later complained to Sgt. Raso of pain to his ribs and he was transported to the hospital.

Subject Officer: PO HUMBERTO MORALES

- *PO Morales is a Hispanic man who was § 87(2)(b) old at the time of the incident. He is 5'5" tall, weighs 160 pounds and has black hair and brown eyes.*
- *PO Morales worked from 7:30 p.m. on May 24, 2011, to 4:05 a.m. on May 25, 2011, dressed in plain clothes and assigned to anticrime with Sgt. Raso and PO Stynes in an unmarked vehicle.*

Memo Book (encl. 11-11a)

PO Morales made the following memo book entries related to this incident: At 11:30 p.m., one arrest on Teller Avenue for § 87(2)(b).

Complaint Report § 87(2)(b) **and Arrest Report** § 87(2)(b) (encl. 11b-11d)

The complaint and arrest reports, completed by PO Morales, indicate § 87(2)(b) was charged with § 87(2)(a) 160.50

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

Criminal Court Complaint (encl. 11e)

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

Statements to the CCRB (encl. 11f-11k)

On January 19, 2011, and again on March 20, 2013, PO Humberto Morales was interviewed at the CCRB. § 87(2)(g)

§ 87(2)(g)

While the officers were stopped at a traffic light, PO Morales observed a cab travelling on Teller Avenue at a high rate of speed. The observation was made from two to three car lengths away. He said the cab was going over the posted limit, which he believed was 30 miles per hour, but he could not estimate how fast it was going and could only describe it as “fast.” § 87(2)(b) was leaning forward towards § 87(2)(b). During his first interview, PO Morales said there had been a livery cab robbery pattern in the Bronx, but in his second interview, he said he did not know if there was an open robbery pattern concerning cabs at the time of the incident. PO Morales said it is common for perpetrators who are robbing cabs to lean forward to avoid being recorded by the cab’s camera. These reasons led PO Morales to believe a robbery was occurring in the cab. PO Morales recalled telling PO Stynes that he had observed the cab traveling at a high rate of speed, but he was unsure if he told the other officers what he observed occurring inside the vehicle.

PO Morales did not remember whether the cab’s windows were up or down or whether there were any lights on inside the cab as the officers approached. PO Morales has his flashlight out, but did not recall if he shined it into the cab. As PO Morales approached the passenger’s side of the vehicle, he saw § 87(2)(b) place his right hand into the rear of his sweatpants. PO Morales did not see anything in his hand at this time. For safety precautions, PO Morales instructed § 87(2)(b) to exit the cab. His intention was to frisk the area where § 87(2)(b) had reached, for his safety, because he suspected that § 87(2)(b) had a firearm. PO Morales did not make any observations that further raised his suspicion about § 87(2)(b) and did not remember if he saw any bulges on § 87(2)(b). § 87(2)(b) leaned over the trunk of the cab, but before PO Morales began the frisk, § 87(2)(b) turned towards PO Morales and “squared off” by putting his hands up towards PO Morales. PO Morales description of the physical struggle that ensued matched Sgt. Raso’s testimony.

During the struggle, while § 87(2)(b) was on the ground, he placed his hand in his pants, prompting PO Morales to grab § 87(2)(b)’s hand from the outside of his pants. PO Morales could feel that § 87(2)(b) was holding something which felt “rocky” in his hand. PO Morales believed they felt like “crack rocks” and presumed it was crack cocaine. He then alerted the other officers, “It’s not guns. It’s drugs.” PO Morales pulled § 87(2)(b)’s hand from his pants, at which time he saw a clear plastic material sticking out of his pants, which PO Morales recognized to be a clear plastic bag, tied up. Based on his experience making narcotics arrests, PO Morales suspected the bag contained narcotics. He did not recall if he visually identified the contents of the bag at this point, but the bag was not removed from § 87(2)(b)’s pants at the scene of the arrest.

PO Morales handcuffed § 87(2)(b) and lifted him from the ground. PO Morales noticed a laceration on § 87(2)(b)’s face. In his first interview, PO Morales said § 87(2)(b) sustained the

laceration as a result of falling face-down on the ground; in his second interview, PO Morales said he did not see § 87(2)(b) hit his head on anything or see anyone hit § 87(2)(b) in the head. None of the officers punched, kicked or struck § 87(2)(b).

After being handcuffed, § 87(2)(b) again put his hands into his pants and PO Morales again had to remove § 87(2)(b)'s hands from his pants. PO Morales put § 87(2)(b) in the police vehicle and sat with him to monitor him for the duration of the incident. PO Morales did not pull § 87(2)(b)'s pants down at the scene of the arrest. PO Morales did not know if anyone spoke to § 87(2)(b) or § 87(2)(b). PO Morales did not speak to § 87(2)(b). He did not know if § 87(2)(b) was frisked or whether the vehicle was searched. No officers used profanity towards § 87(2)(b) at any time.

At the stationhouse, § 87(2)(b) was strip-searched. § 87(2)(b) resisted being searched, and to overcome his resistance, Sgt. Raso and PO Stynes grabbed § 87(2)(b) and held him still so that PO Morales could conduct the search. No other force was used besides holding him still. No officers punched, kicked or struck § 87(2)(b) at any time. PO Morales did not remember § 87(2)(b) complaining of anyone striking, punching or kicking him. PO Morales pulled the plastic bag from § 87(2)(b)'s pants and visually identified the substance inside as narcotics.

Subject Officer: PO JOSEPH STYNES

- *PO Stynes is a white man who was § 87(2)(b) old on the date of incident. He weighs 300 pounds, stands 5'8" tall and has hazel eyes and a bald head.*
- *PO Stynes worked from 2:52 p.m. on May 24, 2011, to 4:05 a.m. on May 25, 2011, dressed in plain clothes and assigned to anticrime with Sgt. Raso and PO Morales in an unmarked vehicle.*

Memo Book (encl. 12-12a)

PO Stynes made the following memo book entries related to this incident: At 11:30 p.m., § 87(2)(b) was placed under arrest for § 87(2)(b) on the corner of East 165th Street and Teller Avenue.

Statements to the CCRB (encl. 12-12g)

On January 19, 2012, and again on April 23, 2013, PO Joseph Stynes was interviewed at the CCRB. § 87(2)(g)

PO Stynes did not recall any specific conditions the officers were looking for on the date of incident. PO Stynes observed the cab for about 25 to 30 seconds before the officers pulled it over. There was a discussion about the cab traveling at a high rate of speed, and PO Stynes recalled that it had accelerated rapidly coming out of a turn, but he could not estimate how fast it was going and did not know if it exceeded the speed limit.

As PO Stynes approached the cab, through the back window, he observed § 87(2)(b) lean forward and to the left, which based on his experience, made him suspect § 87(2)(b) was concealing a weapon. The other officers approached the cab ahead of PO Stynes, and his view of § 87(2)(b) was partially obstructed. Even though he could not see § 87(2)(b)'s hands, he saw his arms, and it looked as though § 87(2)(b) he was reaching behind him.

PO Stynes approached the § 87(2)(b) and asked if he was okay. § 87(2)(b) said everything was fine. Nothing about his response raised PO Stynes' suspicion. PO Stynes did not recall if he questioned § 87(2)(b) about his driving. PO Stynes did not recall if he relayed the details of the conversation to the other officers.

After PO Stynes had been speaking to § 87(2)(b) for about 30 seconds, PO Stynes observed a struggle occurring between PO Morales, Sgt. Raso and § 87(2)(b). PO Stynes went to the rear of the vehicle to assist, where he saw § 87(2)(b) on the ground with his right hand in the back of his sweatpants. PO Morales and Sgt. Raso were struggling to restrain and handcuff him. PO Stynes did not

know how § 87(2)(b) got to the ground. PO Stynes did not see § 87(2)(b) hit his head on anything or see anyone hit it. PO Stynes assisted in restraining § 87(2)(b) but neither he nor the other officers punched or kicked § 87(2)(b). PO Stynes did not step on § 87(2)(b)'s head and his foot never made contact with § 87(2)(b)'s head. During the struggle PO Morales shouted, "It's not guns. It's drugs." PO Stynes was unaware of how PO Morales made that determination. Narcotics were not recovered until later at the stationhouse. During the struggle, § 87(2)(b) exited the cab. PO Stynes believed he interacted with her, but he did not recall the nature of the interaction, did not recall having physical contact with her and did not recall her being frisked or searched.

After § 87(2)(b) was handcuffed and lifted from the ground, PO Stynes saw a laceration on his forehead, which he presumed was caused by § 87(2)(b)'s fall to the ground. After § 87(2)(b) was removed to the police vehicle, PO Stynes searched the back seat of the cab for evidence or weapons. He did not search the front or the trunk. PO Stynes was suspicious there was contraband in the vehicle because of § 87(2)(b)'s earlier movements that looked like he may have been hiding something. PO Stynes did not recall if there were additional factors that raised his suspicion, but said the other officers may have given him information about § 87(2)(b) possessing narcotics by that time. PO Stynes did not recall discussing the search of the cab with the other officers. Nothing was recovered during the search.

After the search, § 87(2)(b) and § 87(2)(b) left. None of the officers used profanity towards § 87(2)(b) or § 87(2)(b).

On the way to the stationhouse, PO Morales sat in the back with § 87(2)(b) and held his hands because he kept putting his hands in his pants. No other force was used against him in the vehicle. At the stationhouse, § 87(2)(b) was not compliant and had to remain handcuffed during the strip-search. All the officers used physical force to try to restrain him, but PO Stynes did not recall exactly what actions the officers took and could only describe the force as "restraining." The officers brought § 87(2)(b) to the ground intentionally to better control him, but PO Stynes could not describe how they went to the ground. No officers struck him. Other than taking him to the ground and physically holding him, no other force was used at the stationhouse.

Medical Records

Ambulance Call Report (ACR) - § 87(2)(b) (encl. 13a-13d)

The ACR from May 25, 2011, indicates an ambulance transported § 87(2)(b) to § 87(2)(b). He had head and soft tissue trauma; pain, abrasions contusions and swelling in multiple areas "all over;" multiple abrasions of various severity all over his face, neck, torso and arms; tenderness to his bilateral axillary area; a large abrasion to his right anterior head; blood shot eyes; ecchymosis under his eyes; and scratches on his face. EMS treated him with bandages, a cold pack and irrigation.

§ 87(2)(b) (encl. 13e-13w)

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b). He complained of pain to his ribs, head, lower back, and left eye as well as bruising on his left shoulder. Records indicate an abrasion to his right scalp, left ecchymosis, tenderness to his ribs, head trauma, bloodshot eyes, ecchymosis under his eyes and scratches on his face. Records indicate an abrasion to his right forehead and bruising around his left eye. § 87(2)(b) was treated with x-rays, a CT scan and pain management. Radiology reports for his head and ribs did not demonstrate any gross abnormalities or acute fractures.

§ 87(2)(b) (encl. 14-14k)

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) triage unit. He complained of rib and back pain. He had bruising under his left eye and it was bloodshot. He had a healed laceration on his right frontal scalp, bruising on his right lower abdomen, sharp pains on both sides of his anterior chest and lower back pain. § 87(2)(b) received x-rays that showed no irregularities.

ACR - FDNY (encl. 15b-15e)

The ACR from June 7, 2011, indicates an ambulance transported § 87(2)(b) to § 87(2)(b). He complained of pain to his ribs and abdomen. He had tender abdominal soft tissue and swelling to his lower left ribs. He was diagnosed with exacerbation of injuries.

§ 87(2)(b) (encl. 15-15ee)

On § 87(2)(b), § 87(2)(b) was treated at the § 87(2)(b) emergency medical services unit. He complained of intermittent pain to his ribs and back. He had bruising under his left eye, a bloodshot left eye, a healed laceration to his front scalp and bruising on his lower abdomen. § 87(2)(b) was prescribed acetaminophen with Codeine 3.

NYPD Documents

Command Log (encl. 17)

§ 87(2)(b)'s arrest was entered into the 48th Precinct's Tour 3 command log on May 24, 2011, at 10:30 p.m. He was charged with § 87(2)(a) 160.50. § 87(2)(b) was listed as injured (no specifics) and at 4:55 a.m., he was transported to the hospital by RMP 951. § 87(2)(b) was strip-searched with positive results. The strip-search was authorized by Sgt. Raso.

Other Evidence

A Google Maps Street View search indicates the intersection of Teller Avenue and East 164th Street and the intersection of Teller Avenue and East 165th Street have all-way stop signs (encl. 3-3c).

Summons/Arrest for Incident and Disposition (encl. 17a)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings (encl. 18-19c)

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming unspecified monetary as redress. As of March 29, 2013, the New York City Law department confirmed that the civil case was still active. Messages left for § 87(2)(b)'s civil attorney seeking the status of the case and permission to obtain a copy of the 50H hearing have not been returned.
- § 87(2)(b) has not filed a Notice of Claim with regard to this incident with the City of New York as of March 30, 2012, which was seven months past the 90-day filing deadline.

Civilians Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- Neither § 87(2)(b) nor § 87(2)(b) has filed any other CCRB complaints (encl. 2g-2h).

Subject Officers CCRB History

- Sgt. Michael Raso has been a member of service for nine years and there are three substantiated CCRB allegations against him. (encl. 2-2b).

- In case number 200801117, the Board substantiated stop and gun pointed allegations and recommended command discipline. In July 2009, the NYPD issued instructions.
- In case number 200902991, the Board substantiated a vehicle stop allegation and recommended charges. In August 2010, the NYPD issued instructions.
- PO Humberto Morales has been a member of the service for nine years and there are no substantiated CCRB allegations against him (encl. 2c).
- PO Joseph Stynes has been a member of the service for sixteen years and there are three substantiated CCRB allegations against him (encl. 2d-2f).
 - In case number 200306684, the Board substantiated a frisk allegation and recommended charges. In January 2005, the NYPD issued instructions.
 - In case number 200404864, the Board substantiated threat of force and discourtesy allegations and recommended charges. In September 2005, the NYPD issued a command discipline.

Conclusion

Identification of Subject Officers

Sgt. Raso, PO Morales and PO Stynes acknowledged their roles in the vehicle stop. § 87(2)(g)

Although no officers could testify in detail about their interactions with § 87(2)(b) both § 87(2)(b) and the independent witness, § 87(2)(b) said an officer did interact with her. Sgt. Raso also stated that PO Stynes interacted with her. § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded:

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, Sgt.

Michael Raso supervised the stop of the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed the officers stopped the cab in which § 87(2)(b) and § 87(2)(b) were passengers. The vehicle was not enrolled in the NYPD's Taxi Robbery Inspection Program.

Officer testimonies indicate the cab was stopped based on the observations of PO Morales and under the supervision of Sgt. Raso. According to officer testimonies, PO Morales observed the cab driving at a high rate of speed and observed § 87(2)(b) in the back seat leaning towards the driver, causing him to suspect a robbery was occurring. PO Morales could not specify the speed at which the cab had been driving and could only describe it as "fast." He said it was going faster than the posted limit, which he believed was 30 miles per hour, but he could not estimate how much faster. Sgt. Raso confirmed that PO Morales said he saw the cab speeding, but Sgt. Raso had not noticed the cab before PO Morales pointed it out. PO Stynes said he observed the cab for about 25 to 30 seconds and recalled that it had accelerated quickly and traveled at a high rate of speed, but he could not estimate how fast it was going and did not know if it had exceeded the speed limit.

§ 87(2)(b) said he had been driving at approximately 15 miles per hour due to stop signs at each intersection. A search of Google Maps Street View confirmed that there are stop signs at the intersections in question. § 87(2)(b) said he was never told why his vehicle was stopped. § 87(2)(b) also denied that § 87(2)(b) had been speeding or driving recklessly. By all accounts, no actions were taken to address the alleged traffic violation.

PO Morales said that as the cab passed, about two to three car lengths away from the police vehicle, he observed § 87(2)(b) in the back seat of the cab, leaning forward towards the driver. PO Morales said this made him suspicious that § 87(2)(b) was trying to avoid being recorded by a camera inside the cab. The officers were inconsistent on whether there were specific conditions they were looking for that night. PO Morales was unsure if he told the other officers anything about what he had observed occurring inside the vehicle. Neither PO Stynes nor Sgt. Raso made the specific observations that PO Morales did with respect to § 87(2)(b)'s actions, although PO Stynes said it looked as if the male passenger was arguing with the driver. Sgt. Raso recalled PO Morales telling him that § 87(2)(b) had been leaning forward and that it had appeared as though § 87(2)(b) was arguing with the driver. Sgt. Raso said the officers stopped the cab in order to investigate whether there was "an altercation" in the vehicle. Sgt. Raso said robberies of livery cabs are common, but noted, "It could have been anything, any altercation," citing "disputes" and "fair disputes" as other reasons that would prompt the officers to stop a cab. Sgt. Raso said that other than the high rate of speed and the passenger leaning forward, nothing else made him suspicious that a crime was occurring in the vehicle.

A vehicle stop is reasonable when an officer has probable cause that a traffic violation has occurred. Absent a traffic violation, it is well settled that in order to stop a vehicle to investigate criminal activity, the police must have a reasonable suspicion that its occupants have committed, are committing or are about to commit a crime. *People v. Robinson*, 271 A.D.2d 17 (2000, 1st Dept.); *People v Taylor*, 31 A.D.3d 1141 (2006, 4th Dept.) (encl. 1-1h) Conduct susceptible to innocent interpretation, without more, does not provide officers with justification to stop a vehicle. Furtive movements by the occupants of a vehicle do not justify a vehicle stop. *People v. Rossetti*, 148 A.D.2d 357 (1989, 1st Dept.) (encl. 1i-1j) Cabs not participating in the NYPD's TRIP program can only be stopped when an officer has reasonable suspicion of criminal activity. *People v. Abad*, 98 N.Y.2d 12 (2002) (encl. 1t-1x)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the search of § 87(2)(b)

Allegation D - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales searched § 87(2)(b)

§ 87(2)(b) said PO Morales searched his jacket and pants pockets before any force was used against him and before his arrest was initiated. He said that as the officer searched him, he began yelling in order to draw attention, prompting PO Morales to use the above-mentioned force. § 87(2)(b) said § 87(2)(b) was frisked, but did not testify that he was searched. § 87(2)(b) said he did not see if § 87(2)(b) was searched.

According to Sgt. Raso and PO Morales, the officers had § 87(2)(b) stand at the rear of the vehicle so that PO Morales could frisk him for weapons; however, according to these officers, no frisk or search was performed, because before PO Morales touched § 87(2)(b) § 87(2)(b) pushed off from the vehicle, turned to face PO Morales and raised his hands. At this point, the officers grabbed him and began the physical struggle that led § 87(2)(b)'s arrest. PO Morales said that during the struggle, he felt something in § 87(2)(b)'s pants and saw a clear plastic bag sticking out of his pants that he believed contained narcotics, but the officers were consistent that § 87(2)(b) was not searched prior to his arrest. PO Stynes said he was speaking with § 87(2)(b) when the alleged search would have occurred and did not notice what was happening between § 87(2)(b) and the other officers until after the struggle began.

§ 87(2)(g)

Allegation E - Discourtesy: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Stynes told her, "Get the fuck off the phone." PO Stynes denied making this remark and the other officers denied hearing PO Stynes say this. § 87(2)(b) did not know what interaction § 87(2)(b) had with the officers. § 87(2)(b) overheard an officer speak with § 87(2)(b) about a phone, but he did not testify to hearing the alleged profanity.

§ 87(2)(g)

Allegation F - Force: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso used physical force against § 87(2)(b)

Allegation G - Force: At East 165th Street and Teller Avenue in the Bronx, PO Humberto Morales used physical force against § 87(2)(b)

§ 87(2)(b) alleged that as PO Morales searched him, he kicked at the inside of his feet and slammed his head onto the trunk of the cab. He also alleged that Sgt. Raso punched him in the face, causing him to fall to the ground, and that while on the ground, all three officers kicked and punched him more than ten times, on what he described as “all over” his body. § 87(2)(b) admitted arguing with the officers and yelling, but denied that he physically resisted. He said he brought his hands to his face immediately prior to Sgt. Raso punching him and went into a fetal position on the ground, but denied fighting against the officers. § 87(2)(b) corroborated § 87(2)(b)'s account of PO Morales slamming his head onto the trunk, Sgt. Raso punching him and officers punching and kicking him while he was on the ground. § 87(2)(b) said he was reluctant to look back at the interaction between § 87(2)(b) and the officers, but that he did hear a loud thud at one point, and when he did look back, he saw § 87(2)(b) face-down on the ground, moving from side to side, but did not see if the officers struck him.

Sgt. Raso and PO Morales testified that before PO Morales ever made physical contact with § 87(2)(b), § 87(2)(b) pushed off from the vehicle, turned to face PO Morales and raised his hands, prompting the officers to grab his arms and turn him back around. The officers were consistent that § 87(2)(b) resisted and the three men went to the ground. Sgt. Raso said that while the officers attempted to handcuff § 87(2)(b), § 87(2)(b) struggled by flailing his arms and reaching toward his pants. Sgt. Raso and PO Morales both denied that officers hit § 87(2)(b)'s head against the vehicle, punched him or kicked him. PO Stynes said that while he was speaking to § 87(2)(b) he noticed a struggle between the officers and § 87(2)(b) who was already on the ground at that point. PO Stynes assisted the officers in restraining § 87(2)(b) but denied that officers punched or kicked him. All the officers said § 87(2)(b) sustained his facial injuries when he fell to the ground.

Patrol Guide section 203-11 states that officers may only use the level of force necessary to overcome a suspect's resistance (encl. 1k).

§ 87(2)(g)

Allegation H - Force: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes used physical force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that while § 87(2)(b) was handcuffed on the ground, PO Stynes stepped on § 87(2)(b)'s head and grinded it into the concrete, resulting in an abrasion to § 87(2)(b)'s forehead. § 87(2)(b)'s medical records indicate that he sustained a large abrasion to his right anterior head. § 87(2)(b) also provided photographs that document an abrasion to his right forehead. § 87(2)(b) the sole independent witness, said that he could not specify whether PO Stynes grinded § 87(2)(b)'s head into the ground, but that he did observe PO Stynes with his foot on § 87(2)(b)'s head while he was laying on the ground. PO Stynes denied stepping on § 87(2)(b)'s head or grinding it against the ground. The other officers denied that any force was used beyond what was discussed in Allegations F and G, and stated that § 87(2)(b)'s injuries were the result of his fall to the ground.

§ 87(2)(g)

§ 87(2)(g)

Patrol Guide section 203-11 states that officers may only use the level of force necessary to overcome a suspect's resistance (encl. 1k).

§ 87(2)(g)

§ 87(2)(g)

Allegation I - Discourtesy: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that PO Stynes threatened her by saying, "Shut up, you're going to jail too." Neither § 87(2)(b) nor § 87(2)(b) corroborated § 87(2)(b) allegation. PO Stynes denied making this threat and the other officers denied hearing PO Stynes say this.

§ 87(2)(g)

Allegation J - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes frisked § 87(2)(b)

Allegation K - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, PO Joseph Stynes searched § 87(2)(b)

§ 87(2)(b) alleged that PO Stynes frisked and searched her. Specifically, she alleged that PO Stynes patted her front and back pants pockets, then instructed her to lift her shirt enough for him to see her waistband. § 87(2)(b) did not see the interaction between § 87(2)(b) and the officers. § 87(2)(b) did not testify to witnessing a frisk, but did say an officer told § 87(2)(b) to pull her pants pockets inside out.

PO Stynes believed he interacted with § 87(2)(b) but did not recall frisking or searching her and did not recall having physical contact with her. Sgt. Raso denied that § 87(2)(b) was frisked or searched and PO Morales said he did not know if this happened.

§ 87(2)(g)

Allegation L - Abuse of Authority: At East 165th Street and Teller Avenue in the Bronx, Sgt. Michael Raso supervised the search of the car in which § 87(2)(b) **and** § 87(2)(b) **were occupants.**

It is undisputed that PO Stynes searched the vehicle under the supervision of Sgt. Raso. It is undisputed that he searched the back seat area, but not the front or the trunk.

Sgt. Raso said he instructed PO Stynes to search the vehicle because he suspected § 87(2)(b) had concealed weapons or narcotics in the vehicle. He suspected this based on the perceived altercation that led to the initial car stop, § 87(2)(b)'s movements as the officers approached, and the fact that § 87(2)(b) was arrested for narcotics. PO Stynes and PO Morales confirmed that they also saw § 87(2)(b) lean forward and reach behind him as the officers approached, and that they suspected § 87(2)(b)

§ 87(2)(b) may have concealed something in the vehicle.

According to People v. Newman, 96 A.D.3d 34 (2012) (encl. 11-1q), when there is a substantial likelihood of a weapon being in a stopped vehicle and when that poses an "actual and specific danger" to an officer's safety, the officer is justified in engaging in a limited intrusion into the vehicle. Movement within a car suggesting the suspect was reaching for something that might be a weapon, if combined with some other suggestive factor, is sufficient to justify the limited intrusion of searching the area where a suspect's movements took place.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation M - Force: At the 48th Precinct stationhouse, Sgt. Michael Raso used physical force against § 87(2)(b)

Allegation N - Force: At the 48th Precinct stationhouse, PO Humberto Morales used physical force against § 87(2)(b)

Allegation O - Force: At the 48th Precinct stationhouse, PO Joseph Stynes used physical force against § 87(2)(b)

§ 87(2)(b) alleged that at the stationhouse, the officers dragged him on the ground, punched him and kicked him. He could not describe in detail where he was kicked or punched, or which officer took which action. § 87(2)(b) sustained injuries consistent with some level of force being used against him.

Sgt. Raso said that upon arriving at the stationhouse, § 87(2)(b) lowered himself to the ground and appeared to clench his buttocks to prevent the narcotics from falling from his pants. Sgt. Raso said that as a result, the officers had to carry him into the stationhouse by his arms and legs. Sgt. Raso also said § 87(2)(b) thrashed around violently and pushed Sgt. Raso when the officers tried to strip-search him. PO Stynes and PO Morales also said § 87(2)(b) resisted during the strip-search. It is undisputed that § 87(2)(b) remained handcuffed during the strip-search. PO Stynes testified that during the strip-search, the officers had to restrain § 87(2)(b) and take him to the ground, but denied that they used any other force against him. PO Morales said Sgt. Raso and PO Stynes grabbed and held § 87(2)(b) while he conducted the strip-search, but denied that any other force was used and denied that any officer struck him. Sgt. Raso could not provide details about how § 87(2)(b) was restrained.

Patrol Guide section 203-11 states that officers may only use the level of force necessary to overcome a suspect's resistance (encl. 1k).

§ 87(2)(g)

§ 87(2)(g)

Allegation P - Force: At the 48th Precinct stationhouse, Sgt. Michael Raso supervised the strip-search of § 87(2)(b)

It is undisputed that § 87(2)(b) was strip-searched. All the officers were consistent that § 87(2)(b) appeared to reach for or hide something in the rear of his pants immediately prior to and during his arrest. During the arrest, PO Morales saw a plastic bag protruding from § 87(2)(b)'s waistband and suspected it contained drugs. He alerted the other officers to this fact. The officers were consistent that no drugs were recovered until § 87(2)(b) was at the stationhouse. Arrest documents indicate a bag containing "ecstasy" pills was ultimately recovered from the rear of § 87(2)(b)'s pants waistband.

According to Patrol Guide section 208-05 (encl. 1r-1s), a strip-search will be utilized when an officer "reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods."

§ 87(2)(g)

Team: 3

Investigator:

Signature

Print

Date

Supervisor:

Title/Signature

Print

Date

Reviewer:

Title/Signature

Print

Date

Reviewer:

Title/Signature

Print

Date